



DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 110

[Docket Number USCG-2020-0154]

RIN 1625-AA01

Anchorage Regulations; Mississippi River, Mile Markers 12 to 85 Above Head of Passes

AGENCY: Coast Guard, Department of Homeland Security (DHS).

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to amend anchorage regulations for the Lower Mississippi River (LMR) between mile markers (MM) 12 and 85 Above Head of Passes (AHP). This action would modify nine anchorages and establish one new anchorage grounds. The rule would increase the available anchorage areas necessary to accommodate vessel traffic, promote navigational safety, provide for the overall safe and efficient flow of vessel traffic and commerce, and bolster the economy through increased anchorage capacity. We invite your comments on this proposed rulemaking.

DATES: Comments and related material must be received by the Coast Guard on or before [INSERT DATE 30 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER].

ADDRESSES: You may submit comments identified by docket number USCG-2020-0154 using the Federal eRulemaking Portal at <https://www.regulations.gov>. See the “Public Participation and Request for Comments” portion of the **SUPPLEMENTARY INFORMATION** section for further instructions on submitting comments.

FOR FURTHER INFORMATION CONTACT: If you have questions about this proposed rulemaking, call or email Lieutenant Commander Thao Nguyen, Sector New Orleans, U.S. Coast Guard; telephone 504-365-2231, email Thao.V.Nguyen@uscg.mil.

SUPPLEMENTARY INFORMATION:

I. Table of Abbreviations

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| AHP | Above Head of Passes |
| CFR | Code of Federal Regulations |
| COTP | Captain of the Port Sector New Orleans |
| CPRA | Coastal Protection and Restoration Authority |
| CRPPA | Crescent River Port Pilots' Association |
| DHS | Department of Homeland Security |
| FR | <i>Federal Register</i> |
| LDB | Left Descending Bank |
| LMR | Lower Mississippi River |
| MM | Mile Marker |
| MNSA | Maritime Navigation Safety Association |
| NOI | Notice of Inquiry |
| NPRM | Notice of proposed rulemaking |
| RDB | Right Descending Bank |
| § | Section |
| U.S.C. | United States Code |

II. Background, Purpose, and Legal Basis

The legal basis and authorities for this notice of proposed rulemaking are found in 46 U.S.C. 70006, 33 CFR 109.05, 33 CFR 1.05-1, and DHS Delegation No. 0170.1, which collectively authorize the Coast Guard to propose, establish, and define regulatory anchorage grounds. Under Title 33 of the Code of Federal Regulation (CFR) § 109.05, U.S. Coast Guard District Commanders are delegated the authority to establish anchorage grounds by the Commandant of the U.S. Coast Guard. The Coast Guard established Anchorage Grounds under Title 33 CFR 110.1(b), Subpart B (32 FR 17728, Dec. 12, 1967, as amended by 52 FR 33811, Sept. 8, 1987; 63 FR 5526, June 30, 1998).

The Coast Guard proposes to amend nine existing anchorage grounds; Boothville Anchorage (33 CFR 110.195 (a)(4)), Magnolia Anchorage (33 CFR 110.195 (a)(7)), Davant Anchorage (33 CFR 110.195 (a)(9)), Wills Point Anchorage (33 CFR 110.195(a)(11)), Cedar Grove Anchorage (33 CFR 110.195(a)(12)), Belle Chasse

Anchorage (33 CFR 110.195 (a)(13)), Lower 12 Mile Point Anchorage (33 CFR 110.195 (a)(14)), Lower 9 Mile Anchorage (33 CFR 110.195 (a)(15)), Point Michel Anchorage (33 CFR 110.195 (a)(35)), and to establish one new anchorage grounds- Phoenix Anchorage at 33 CFR 110.195 (a)(37).

The project to modify or establish multiple anchorage grounds along the LMR was initiated in 2019. From 2019 through 2021, certain port stakeholders, (including Crescent River Port Pilots' Association (CRPPA), Maritime Navigation Safety Association (MNSA), Coastal Protection and Restoration Authority (CPRA) and United States Coast Guard (USCG)) worked to determine if the proposed modifications were necessary and in suitable locations with consideration given to, among other things, environmental factors.

The Coast Guard published a Notice of Inquiry (NOI), 85 FR 61671, on September 30, 2020. The NOI solicited comments from maritime stakeholders on the proposal to amend ten existing anchorage grounds and to establish two new anchorage grounds. At the end of the comment period, ending on November 30, 2020, we received a total of nine comments. The Coast Guard addresses the comments below.

Seven of the nine comments supported the proposed modifications of existing or establishment of new anchorage grounds along the Lower Mississippi River (LMR); one comment opposed several of the proposed modifications of existing or establishment of new anchorage grounds along the LMR (detailed below), and one comment was outside of the scope of the NOI as it related to change in presidency.

One commenter objected to the following modifications/new anchorages:

- 1) 0.6 miles establishment of Phoenix Anchorage located at Mile Marker (MM) 57.82-58.42. The justification provided was that the anchorage could conflict with a borrow source identified for marsh restoration.

The Coast Guard does not agree with this objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 2) 0.3 miles expansion of Davant Anchorage located at MM 52.8-53.9. The justification was that the anchorage could conflict with a borrow source identified for marsh restoration.

The Coast Guard does not agree with this objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 3) 0.1 miles expansion of Magnolia Anchorage located at MM 45.5-47.6. The justification was that the anchorage could conflict with a borrow source identified for marsh restoration.

The Coast Guard does not agree with this objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 4) 0.95 miles expansion of Boothville Anchorage located at MM 13.0-18.5. The justification was that the anchorage could conflict with a borrow source identified for marsh restoration.

The Coast Guard does not agree with this objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 5) 0.2 miles expansion of Alliance Anchorage located at MM 63.8-65.8. The justification was that the anchorage could conflict with a borrow source identified for marsh restoration.

The Coast Guard does not agree with this objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 6) 0.2 miles shift upriver and 0.15 miles expansion of Wills Point Anchorage currently located at MM 66.5-67.6. The proposed location would be MM 66.7- 67.9. The provided justification was twofold. First, the shift upriver would directly overlap with the footprint of the Mid-Breton Sediment Diversion intake structure located at MM 68 that is intended to convey sediment, fresh water, and nutrients from the Mississippi River into Mid-Breton Sound Basin to reduce coastal land loss and sustain surrounding wetlands. Second, the anchorage could conflict with a borrow source for marsh restoration.

The Coast Guard agrees that the proposed shift upriver and expansion of the anchorage could pose negative impacts to the Mid-Breton sediment Diversion intake structure. The Coast Guard does not agree with second part of the objection. Operations routinely occur along the Mississippi River in and around anchorage grounds and impacts to navigation and work-sites, such as the borrow site, are minimal.

- 7) 0.5 miles establishment of Bertrandville Anchorage located at MM 68.5-69.0.

The justification was that the anchorage, being directly upriver of the Mid-Breton Sediment Diversion intake structure, would obstruct the intake flowline and could pose a navigational safety concern.

The Coast Guard agrees that the proposed establishment of an anchorage grounds at this location could pose negative impacts to the Mid-Breton sediment Diversion intake structure.

NOTE: The following anchorages were mentioned in the opposition comment but are not locations that are being considered for amendment by this rulemaking at this time: Myrtle Grove anchorage and Point Celeste Anchorage.

In March 2021, two additional comments were received from stakeholders. Although these comments were received outside of the NOI comment period, the Coast Guard chose to consider them. In one new comment, the commenter that submitted the opposing comments above withdrew their opposing comments on items 1-4 listed above (Phoenix, Davant, Magnolia, and Boothville Anchorages), but maintained the objections raised in items 5-7 to the expansions of Wills Point Anchorage and Alliance Anchorage and the establishment of Bertrandville Anchorage. The second new comment proposed to remove the establishment of Bertrandville Anchorage from consideration to expand Wills Point Anchorage from MM 66.5- 67.9 and decrease the width of the anchorage to 500 feet.

After considering the stakeholder comments, the Coast Guard has decided that: 1) the width reduction at Wills Point Anchorage will be added to this proposed rulemaking, 2) the length expansions and shift at Wills Point Anchorage and the length expansion at Alliance Anchorage would not be further pursued at this time, and 3) the establishment of a new anchorage ground at Bertrandville would not be further pursued at this time.

The purpose of this proposed rule is to improve navigational safety, providing for the overall safe and efficient flow of vessel traffic and commerce, and bolster the economy through increased anchorage capacity, thus streamlining vessel throughput and increasing ship to port interactions.

The Coast Guard is proposing this rulemaking under authority in 46 U.S.C. 70006.

III. Discussion of Proposed Rule

The Commander of Coast Guard District Eight proposes to establish one new

anchorage ground and amend nine existing anchorage grounds along the LMR, ranging from MM 12 to MM 85 AHP. There are not currently adequate anchorage grounds along the river system to facilitate the safe anchorage of shallow and deep draft vessels along the LMR. This proposed action would ensure the safety and efficiency of navigation of vessels transiting in and out of the LMR. The specific anchorage boundaries are described in detail in the proposed regulatory text at the end of the document. In general, this proposed rule will have the following effects:

1. Increase the length of the Boothville Anchorage from 5.5 miles to 6.45 miles (33 CFR 110.195(a)(4)).
2. Increase the length of the Magnolia Anchorage from 2.1 miles to 2.2 miles (33 CFR 110.195(a)(7)).
3. Increase the length of the Davant Anchorage from 1.1 miles to 1.4 miles (33 CFR 110.195(a)(9)).
4. Decrease the width of the Wills Point Anchorage from 600 feet to 500 feet (33 CFR 110.195(a)(11)).
5. Add a note to the text of the Cedar Grove Anchorage (33 CFR 110.195(a)(12)).
6. Increase the length of the Belle Chasse Anchorage from 2.1 miles to 2.15 miles, and decrease the width from 575 feet to 500 feet ((33 CFR 110.195(a)(13)).
7. Add a Note to the text of the Lower 12 Mile Anchorage (33 CFR 110.195(a)(14)).
8. Increase the length of the Lower 9 Mile Anchorage from 2.3 miles to 2.4 miles (33 CFR 110.195(a)(15)).
9. Increase the length of the Point Michel Anchorage from 1.4 miles to 2.2 miles (33 CFR 110.195(a)(35)).
10. Add a new anchorage, the Phoenix Anchorage, to include the area, 0.6 miles in length, along the left descending bank of the river extending from mile 57.82 to mile 58.42 Above Head of Passes. The width of the anchorage is 400 feet. The

inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

IV. Regulatory Analyses

We developed this proposed rule after considering numerous statutes and Executive orders related to rulemaking. Below we summarize our analyses based on a number of these statutes and Executive orders, and we discuss First Amendment rights of protestors.

A. Regulatory Planning and Review

Executive Orders 12866 and 13563 direct agencies to assess the costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits. This NPRM has not been designated a “significant regulatory action,” under Executive Order 12866. Accordingly, the NPRM has not been reviewed by the Office of Management and Budget (OMB).

This proposed regulatory action is based on minimal impact to routine navigation. The proposed anchorage areas would not restrict traffic as they are located well outside the established navigation channel. Vessels would still be able to maneuver in, around and through the anchorages.

B. Impact on Small Entities

The Regulatory Flexibility Act of 1980, 5 U.S.C. 601–612, as amended, requires Federal agencies to consider the potential impact of regulations on small entities during rulemaking. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000. The Coast

Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities.

While some owners or operators of vessels intending to transit the anchorage grounds may be small entities, for the reasons stated in section IV.A above, this proposed rule would not have a significant economic impact on any vessel owner or operator.

If you think that your business, organization, or governmental jurisdiction qualifies as a small entity and that this rule would have a significant economic impact on it, please submit a comment (see **ADDRESSES**) explaining why you think it qualifies and how and to what degree this rule would economically affect it.

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Public Law 104-121), we want to assist small entities in understanding this proposed rule. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section. The Coast Guard will not retaliate against small entities that question or complain about this proposed rule or any policy or action of the Coast Guard.

C. Collection of Information

This proposed rule would not call for a new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

D. Federalism and Indian Tribal Governments

A rule has implications for federalism under Executive Order 13132 (Federalism), if it has a substantial direct effect on the States, on the relationship between the National Government and the States, or on the distribution of power and responsibilities among the various levels of government. We have analyzed this proposed rule under that Order and have determined that it is consistent with the fundamental federalism principles and

preemption requirements described in Executive Order 13132.

Also, this proposed rule does not have tribal implications under Executive Order 13175 (Consultation and Coordination with Indian Tribal Governments) because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes. If you believe this proposed rule has implications for federalism or Indian tribes, please call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section.

E. Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 (adjusted for inflation) or more in any one year. Though this proposed rule would not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

F. Environment

We have analyzed this proposed rule under Department of Homeland Security Directive 023-01, Rev. 1, associated implementing instructions, and Environmental Planning COMDTINST 5090.1 (series), which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (42 U.S.C. 4321–4370f), and have made a preliminary determination that this action is one of a category of actions that do not individually or cumulatively have a significant effect on the human environment. This proposed rule involves the establishment of one new anchorage grounds and the modification of nine existing anchorage grounds along the LMR. Normally such actions are categorically excluded from further review under paragraph L of Appendix A, Table 1 of DHS Instruction Manual 023–01–001–01, Rev. 1. A preliminary Record of

Environmental Consideration supporting this determination is available in the docket. For instructions on locating the docket, see the **ADDRESSES** section of this preamble. We seek any comments or information that may lead to the discovery of a significant environmental impact from this proposed rule.

G. Protest Activities

The Coast Guard respects the First Amendment rights of protesters. Protesters are asked to call or email the person listed in the **FOR FURTHER INFORMATION CONTACT** section to coordinate protest activities so that your message can be received without jeopardizing the safety or security of people, places, or vessels.

V. Public Participation and Request for Comments

We view public participation as essential to effective rulemaking, and will consider all comments and material received during the comment period. Your comment can help shape the outcome of this rulemaking. If you submit a comment, please include the docket number for this rulemaking, indicate the specific section of this document to which each comment applies, and provide a reason for each suggestion or recommendation.

We encourage you to submit comments through the Federal eRulemaking Portal at <https://www.regulations.gov>. If your material cannot be submitted using <https://www.regulations.gov>, call or email the person in the **FOR FURTHER INFORMATION CONTACT** section of this document for alternate instructions.

We accept anonymous comments. Comments we post to <https://www.regulations.gov> will include any personal information you have provided. For more about privacy and submissions in response to this document, see DHS's eRulemaking System of Records notice (85 FR 14226, March 11, 2020).

Documents mentioned in this NPRM as being available in the docket, and public comments, will be in our online docket at <https://www.regulations.gov> and can be viewed

by following that website's instructions. We review all comments received, but we will only post comments that address the topic of the proposed rule. We may choose not to post off-topic, inappropriate, or duplicate comments that we receive. If you go to the online docket and sign up for email alerts, you will be notified when comments are posted or a final rule is published.

List of Subjects in 33 CFR Part 110

Anchorage grounds.

For the reasons discussed in the preamble, the Coast Guard is proposing to amend 33 CFR part 110 as follows:

PART 110—ANCHORAGE GROUNDS

1. The authority citation for part 110 is revised to read as follows:

Authority: 33 U.S.C 2071, 46 U.S.C. 70006, 70034; 33 CFR 1.05-1; Department of Homeland Security Delegation No. 0170.1.

2. Amend § 110.195 by revising paragraphs (a)(4), (7), (9), (11) through (15), and 35, and adding paragraph (a)(37) to read as follows:

§110.195 Mississippi River below Baton Rouge, LA, including South and Southwest Passes.

(a) * * *

(4) Boothville Anchorage. An area, 6.45 miles in length, along the right descending bank of the river extending from mile 12.05 to mile 18.5 Above Head of Passes. The width of the anchorage is 750 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 250 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 1,000 feet from the water's edge into the river as measured from the LWRP.

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(7) Magnolia Anchorage. An area, 2.2 miles in length, along the right descending bank of

the river extending from mile 45.4 to mile 47.6 Above Head of Passes. The width of the anchorage is 700 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 1,100 feet from the water's edge into the river as measured from the LWRP.

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(9) Davant Anchorage. An area, 1.4 miles in length, along the left descending bank of the river extending from mile 52.5 to mile 53.9 Above Head of Passes. The width of the anchorage is 800 feet.

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(11) Wills Point Anchorage. An area, 1.1 miles in length, along the left descending bank of the river extending from mile 66.5 to mile 67.6 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 200 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

(12) Cedar Grove Anchorage. An area, 1.34 miles in length, along the right descending bank of the river extending from mile 69.56 to mile 70.9 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 200 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 700 feet from the water's edge into the river as measured from the LWRP.

Note 1 to paragraph (a)(12): Jesuit Bend Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

(13) Belle Chasse Anchorage. An area, 2.15 miles in length, along the right descending bank of the river extending from mile 73.05 to mile 75.2 Above Head of Passes. The

width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 375 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 875 feet from the water's edge into the river as measured from the LWRP.

(14) Lower 12 Mile Point Anchorage. An area, 2.2 miles in length, along the right descending bank of the river extending from mile 78.6 to mile 80.8 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 300 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

Note 1 to paragraph (a)(14): English Turn Revetment extends/runs adjacent to the lower portion of this anchorage. Mariners are urged to use caution in this anchorage.

(15) Lower 9 Mile Anchorage. An area, 2.4 miles in length, along the right descending bank of the river extending from mile 82.6 to mile 85.0 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 300 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

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(35) Point Michel Anchorage. An area, 2.2 miles in length, along the right descending bank of the river extending from mile 40.0 to mile 42.2 Above Head of Passes. The width of the anchorage is 500 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 325 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 825 feet from the water's edge into the river as measured from the LWRP.

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(37) Phoenix Anchorage. An area, 0.6 miles in length, along the left descending bank of the river extending from mile 57.82 to mile 58.42 Above Head of Passes. The width of the anchorage is 400 feet. The inner boundary of the anchorage is a line parallel to the nearest bank 400 feet from the water's edge into the river as measured from the LWRP. The outer boundary of the anchorage is a line parallel to the nearest bank 800 feet from the water's edge into the river as measured from the LWRP.

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Dated: August 19, 2021.

Richard V. Timme
Rear Admiral, U.S. Coast Guard,
Commander, Coast Guard District Eight.

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